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OCT 1, 2006

PATRICK E. DUFFY CLERK
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

FILED
BILLINGS, MT

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PATRICK E. DUFFY, CLERK
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P. BRUCE HARPER,)
BARBARA A. HARPER,)
and HARPER LAW FIRM P.C.,)

Plaintiffs,)

vs.)

UBS FINANCIAL SERVICES,)
INC., PATRICK PHILLIP)
DAVISON, NICHOLAS)
RICHARD CLADIS, and DENNIS)
LEROY HALL,)

Defendants.)

Cause No. MCV-06-08-BLG-RFC

AMENDED MISCELLANEOUS ORDER

Plaintiffs have moved this court for the issuance of an order pursuant to 5 U.S.C. § 552a(b) (11). This statute prohibits certain federal agencies from disclosing "any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains[.]" 5 U.S.C. § 552a (b). A "record" is any item of information about an individual "that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual[.]" 5 U.S.C. § 552a (a) (4). This statute governs the United States Postal Service. 39 U.S.C. § 410(b) (1).

Among the several exceptions to the rule that an agency may not disclose a "record" without the written consent of the individual to whom the "record" pertains, is

the provision that an agency must release records “pursuant to the order of a court of competent jurisdiction[.]” 5 U.S.C. § 552a (b) (11).

Exercising jurisdiction under 28 U.S.C. §1331, 5 U.S.C. § 552a (b) (11), and 5 U.S.C. §552(a) (4) (B), this Court has determined that plaintiffs are entitled, under the standard set forth by F.R.C.P. 45(b), to the disclosure sought. Laxalt v. McClatchy, 809 F.2d 885, 888-89 (D.C. Cir. 1987). Moreover, this Court finds that “the need for the disclosure [outweighs] the potential harm to the subject of the disclosure.” Perry v. State Farm Fire & Cas. Co., 734 F.2d 1441, 1447 (11th Cir. 1984).

Accordingly, within 10 days of receipt of this Order, the United States Postal Service shall disclose, produce, and transmit to the plaintiffs copies of the following documents in its custody, possession or control:

1. All documents constituting, mentioning, referring, or relating in any way to the opening, purchase, rental, or reservation of a post office box in Billings, Montana by Patrick Phillip Davison, Nicholas Richard Cladis, Davison LLC, P & N Ventures, PPV, or Cladis Investment Group.

2. All documents sent by the United States Postal Service to Patrick Phillip Davison, Nicholas Richard Cladis, Davison LLC, P & N Ventures, PPV, N & P Partnership, or Cladis Investment Group, mentioning, referring, or relating in any way to a post office box in Billings, Montana.

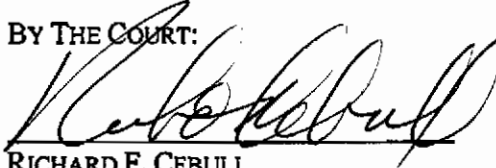
3. All documents sent by Patrick Phillip Davison, Nicholas Richard Cladis, Davison LLC, P & N Ventures, PPV, N & P Partnership, or Cladis Investment Group to the United States Postal Service mentioning, referring, or relating in any way to a post office box in Billings, Montana.

4. All documents including emails, letters, other correspondence, memoranda, forms, notes, or reports mentioning, referring, or relating in any way to a post office box in Billings, Montana owned or controlled by Patrick Phillip Davison, Nicholas Richard Cladis, Davison LLC, P & N Ventures, PPV, N & P Partnership, or Cladis Investment Group.

It is so ORDERED

14th November
DATED this ~~10th~~ day of ~~October~~, 2006.

BY THE COURT:



RICHARD F. CEBULL

United States District Judge